

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
WESTERN DIVISION**

In re:

**SANDRA R. FICKETT,
DEBTOR**

**GARY M. WEINER, CHAPTER 7 TRUSTEE,
PLAINTIFF**

V.

HEATHER M. WOOD and JOSE F. DIAS
DEFENDANTS

CHAPTER 7
CASE NO: 16—30774-EDK

ADV. PRO. NO.: 17-03013

ANSWER

Now comes the DEFENDANTS in the above-captioned matter and in response to PLAINTIFF'S Complaint answers as follows:

1. DEFENDANTS admit the allegations contained in paragraph one of PLAINTIFF'S Complaint that GARY M. WEINER is duly appointed, qualified and acting Trustee in the above captioned case;
2. DEFENDANT HEATHER M. WOODS admits contained in paragraph of PLAINTIFF'S Complaint;
3. DEFENDANT JOSE F. DIAS admits the allegations contained in paragraph three of PLAINTIFF'S Complaint;
4. DEFENDANTS are without sufficient knowledge or information to respond to the

allegations in paragraph 4 of PLAINTIFF'S COMPLAINT

5. DEFENDANTS are without sufficient knowledge or information to respond to the allegations in paragraph 5 of PLAINTIFF'S COMPLAINT
6. DEFENDANTS are without sufficient knowledge or information to respond to the allegations in paragraph 6 of PLAINTIFF'S COMPLAINT
7. DEFENDANTS are without sufficient knowledge or information to respond to the allegations in paragraph 7 of PLAINTIFF'S COMPLAINT
8. DEFENDANTS are without sufficient the knowledge or information to respond to the allegations in paragraph 8 of PLAINTIFF'S COMPLAINT
9. DEFENDANTS are without sufficient knowledge or information to respond to the allegations in paragraph 9 of PLAINTIFF'S COMPLAINT
10. DEFENDANTS are without sufficient knowledge or information to respond to the allegations in paragraph 10 of PLAINTIFF'S COMPLAINT
11. DEFENDANTS are without sufficient knowledge or information to respond to the allegations in paragraph 11 of PLAINTIFF'S COMPLAINT
12. DEFENDANTS admit the allegations in paragraph 12 of PLAINTIFF'S COMPLAINT
13. DEFENDANTS admit the allegations in paragraph 13 of PLAINTIFF'S COMPLAINT
14. DEFENDANT DIAS denies the allegations in paragraph 14 of PLAINTIFF'S COMPLAINT; DEFENDANTS Wood is without sufficient knowledge or information to respond to the allegations in paragraph 14 of PLAINTIFF'S COMPLAINT

15. DEFENDANTS deny the allegations in paragraph 15 of PLAINTIFF'S COMPLAINT
16. DEFENDANTS deny the allegations in paragraph 16 of PLAINTIFF'S COMPLAINT
17. DEFENDANTS deny the allegations in paragraph 17 of PLAINTIFF'S COMPLAINT
18. DEFENDANTS admit the allegations in paragraph 18 of PLAINTIFF'S COMPLAINT but state that this was a business loan and that Ms. Fickett was a willing lender to Mr. Dias.
19. DEFENDANT WOOD admits the allegations in paragraph 19 of PLAINTIFF'S COMPLAINT and states that these monied were taken with Ms. Fickett's knowledge and consent. DEFENDANTS DIAS is without sufficient knowledge or information to respond to the allegations in paragraph 19 of PLAINTIFF'S COMPLAINT
20. DEFENDANTS admit the allegations in paragraph 20 of PLAINTIFF'S COMPLAINT that there was a business loan from Fickett to Dias
21. DEFENDANTS deny the allegations in paragraph 21 of PLAINTIFF'S COMPLAINT and that that all payments were made with the full knowledge and consent of Fickett;

COUNT I

Fraudulent Conveyance

22. The DEFENDANTS restate and reallege the responses in Paragraphs 1-21 above and incorporate the same herein

23. DEFENDANTS are without sufficient knowledge or information to respond to the allegations in paragraph 23 of PLAINTIFF'S COMPLAINT
24. DEFENDANTS are without sufficient knowledge or information to respond to the allegations in paragraph 24 of PLAINTIFF'S COMPLAINT
25. DEFENDANTS are without sufficient knowledge or information to respond to the allegations in paragraph 25 of PLAINTIFF'S COMPLAINT
26. DEFENDANTS are without sufficient knowledge or information to respond to the allegations in paragraph 26 of PLAINTIFF'S COMPLAINT
27. DEFENDANT WOOD denies the allegations in paragraph 27 of PLAINTIFF'S COMPLAINT; DEFENDANT DIAS is without sufficient knowledge or information to respond to the allegations in paragraph 27 of PLAINTIFF'S COMPLAINT
28. The DEFENDANTS ask this honorable court to dismiss the allegations against them contained in Count I and for such other relief as this Court deems just and equitable

COUNT II

Breach of Fiduciary Duty v. Heather M. Wood

29. The DEFENDANTS restate and reallege the responses in Paragraphs 1-28 above and incorporate the same herein.
30. DEFENDANT WOOD is without sufficient knowledge and information to respond to the allegations in paragraph 30 of PLAINTIFF'S COMPLAINT
31. DEFENDANT WOOD is without sufficient knowledge or information to respond to the allegations in paragraph 31 of PLAINTIFF'S COMPLAINT;

32. DEFENDANT WOOD denies the allegations in paragraph 32 of PLAINTIFF'S COMPLAINT;

33. DEFENDANT WOOD denies the allegations in paragraph 33 of PLAINTIFF'S COMPLAINT

WHEREFORE, The DEFENDANT asks this honorable court to dismiss the allegations against her contained in Count II and for such other relief as this Court deems just and equitable

COUNT III

Aiding and Abetting Breach of Fiduciary Duty v. Jose F. Dias

34. The DEFENDANTS restate and reallege the responses in Paragraphs 1-33 above and incorporate the same herein.

35. DEFENDANT DIAS denies the allegations in paragraph 35 of PLAINTIFF'S COMPLAINT

36. DEFENDANT DIAS denies the allegations in paragraph 36 of PLAINTIFF'S COMPLAINT

37. DEFENDANT DIAS denies the allegations in paragraph 37 of PLAINTIFF'S COMPLAINT

38. DEFENDANT DIAS denies the allegations in paragraph 38 of PLAINTIFF'S COMPLAINT

WHEREFORE, The DEFENDANT asks this honorable court to dismiss the allegations against him contained in Count III and for such other relief as this Court deems just and equitable

COUNT IV

Fraud Through Undue Influence v. Heather M. Wood

39. The DEFENDANTS restate and reallege the responses in Paragraphs 1-38 above and incorporate the same herein.

40. DEFENDANT WOOD denies the allegations in paragraph 40 of PLAINTIFF'S COMPLAINT

41. DEFENDANT WOOD denies the allegations in paragraph 41 of PLAINTIFF'S COMPLAINT

42. DEFENDANT WOOD denies the allegations in paragraph 42 of PLAINTIFF'S COMPLAINT

43. DEFENDANT WOOD denies the allegations in paragraph 43 of PLAINTIFF'S COMPLAINT

WHEREFORE, The DEFENDANT asks this honorable court to dismiss the allegations against her contained in Count IV and for such other relief as this Court deems just and equitable

COUNT V
Conversion vs. Wood and Dias

44. The DEFENDANTS restate and reallege the responses in Paragraphs 1-43 above and incorporate the same herein.
45. The DEFENDANTS deny the allegations contained in Paragraph 45 of PLAINTIFF'S COMPLAINT;
46. The DEFENDANTS deny the allegations contained in Paragraph 46 of PLAINTIFF'S COMPLAINT;
47. The DEFENDANTS deny the allegations contained in Paragraph 47 of PLAINTIFF'S COMPLAINT;

WHEREFORE, The DEFENDANTS ask this honorable court to dismiss the allegations against them contained in Count V and for such other relief as this Court deems just and equitable

COUNT VI
Unjust Enrichment vs. Wood and Dias

48. The DEFENDANTS restate and reallege the responses in Paragraphs 1-47 above and incorporate the same herein.
49. The DEFENDANTS deny the allegations contained in Paragraph 49 of PLAINTIFF'S COMPLAINT;
50. The DEFENDANTS deny the allegations contained in Paragraph 50 of

PLAINTIFF'S COMPLAINT;

51. The DEFENDANTS deny the allegations contained in Paragraph 51 of

PLAINTIFF'S COMPLAINT;

WHEREFORE, The DEFENDANTS ask this honorable court to dismiss the allegations against them contained in Count VI and for such other relief as this Court deems just and equitable

COUNT VII
Civil Conspiracy vs. Wood and Dias

52. The DEFENDANTS restate and reallege the responses in Paragraphs 1-51 above and incorporate the same herein.

53. The DEFENDANTS deny the allegations contained in Paragraph 53 of PLAINTIFF'S COMPLAINT;

54. The DEFENDANTS deny the allegations contained in Paragraph 54 of PLAINTIFF'S COMPLAINT;

55. The DEFENDANTS deny the allegations contained in Paragraph 55 of PLAINTIFF'S COMPLAINT;

WHEREFORE, The DEFENDANTS ask this honorable court to dismiss the allegations against them contained in Count VII and for such other relief as this Court deems just and equitable

COUNT VIII

Turnover of Property of the Estate, 11 U.S.C. §542(B) Breach of Contract vs. Jose F. Dias

56. The DEFENDANTS restate and reallege the responses in Paragraphs 1-55 above and incorporate the same herein

57. DEFENDANT DIAS admits the allegations in paragraph 57 of PLAINTIFF'S COMPLAINT

58. DEFENDANT DIAS is without sufficient information or knowledge to answer the allegations in paragraph 58 of PLAINTIFF'S COMPLAINT

59. DEFENDANT DIAS denies the allegations in paragraph 59 of PLAINTIFF'S COMPLAINT

60. DEFENDANT DIAS denies the allegations in paragraph 60 of PLAINTIFF'S COMPLAINT

WHEREFORE, The DEFENDANT DIAS asks this honorable court to dismiss the allegations against them contained in Count VIII and for such other relief as this Court deems just and equitable

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Further answering, the Defendant states that the Plaintiff's Complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Further answering, the Defendant states that this action was not commenced within the time limit permitted by the applicable Statute of Limitations, wherefore; the Plaintiff is barred from maintaining this said action.

THIRD AFFIRMATIVE DEFENSE

Further answering, the Defendant states that the Plaintiff, by his own acts and conduct, is barred from any recovery against the Defendant by laches, estoppel and/or waiver.

WHEREFORE, the Defendant requests that this Honorable Court enter judgment for DEFENDANTS, together with costs and reasonable attorney's fees, and any other remedies which this Honorable Court deems just.

THE DEFENDANTS,
BY THEIR ATTORNEY,

DATED: July 10, 2017

/s/ Thomas N. Wilson
THOMAS N. WILSON
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CERTIFICATE OF SERVICE

I, Thomas N. Wilson, attorney for the DEFENDANT, hereby certify that I caused to be served the Counsel for the PLAINTIFF, GARY M. WEINER and ROBERT E. GIRVAN, III in this action by using the CM/ECF System,

DATED: July 10, 2017

/s/ Thomas N. Wilson
THOMAS N. WILSON